

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 44/2001

Wednesday this the 28th day of November, 2001.

CORAM

HON'BLE MR.G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

P.A.Viswambharan
ACIO-(G) (Retd.)
Puthuparambil House
Viswapadmam, Thammanam
Kochi-682 032.

Applicant

[By advocate Mr.P.Chandrasekhar]

Versus

1. Union of India, represented by
Secretary, Government of India
Ministry of Home Affairs
New Delhi.
2. The Director, Intelligence Bureau
Ministry of Home Affairs
Central Secretariat, North Block,
New Delhi.
3. The Accounts Officer
Pay and Accounts Office
Intelligence Bureau
Ministry of Home Affairs
Government of India
New Delhi.

Respondents.

[By advocate Mr.K.Kesavaikutty, ACGSC]

The application having been heard on 28th November, 2001, the Tribunal on the same day delivered the following:

O R D E R


HON'BLE MR.G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

Applicant retired from the service of the respondents as ACIO-I(G) with effect from 1.3.96. He has filed this Original Application seeking the following reliefs:

- i. To direct the respondents to pay revised monthly pension @ Rs.3682/- to the petitioner from the date of his retirement and pay to him the arrears of pension forthwith;
- ii. To direct the respondents to pay to the applicant interest @ 18% per annum on the amount of Rs. 42,453/- due as DCRG and Rs. 1,80,537/- till March 1999 along with interest due on the said amount of interest @ 18% per annum from due date till date of actual payment.
- iii. To direct the respondents to pay to the applicant Rs. 2491/- being interest @ 12% per annum on Rs. 62,287/- being the GPF due from November, 1996 to March, 1997;

- iv. direct the respondents to pay cost of the applicant in the Original Petition;
- v. Direct the respondents to pay to the applicant revised pension at the rate of Rs. 3699/- from 1.1.96 based on recommendation of 5th Pay Commission.
- vi. Direct the respondents to pay to the applicant interest at the rate of 18% per annum on the revised additional commuted value of pension and arrears of pension from de date till 3.3.2001.

2. According to the applicant, the recommendations of the 5th Pay Commission were implemented by the Government of India with effect from 1.1.96 and all the employees under the Government of India got their pay fixed in the revised pay scale and arrears were paid to them during October, 1997. Whereas he was entitled to receive Rs. 3682/- as monthly pension based on the revised scale of pay, his pension was reduced from Rs. 3188 to Rs. 3140. According to him, revised scale of pay could not work out to his detriment. He was paid Rs. 42,453/- being the arrears of DCRG only on 8.4.99 and Rs. 1,80,537/- being the arrears of commuted value of pension on 22.3.99. When all other officers were paid their dues in October 1997 itself, his provident fund dues were paid only on 27.3.97, and the interest on the GPF due to the applicant was calculated only upto November, 1966 and there was no justification in denying interest on the provident fund for the month from November 1996 to March 1997. The delay is attributable to the respondents and the delay is culpable as it was due to gross negligence on the part of the respondents. Applicant made A-3 representation dated 9.9.1999, requesting the second respondent to pay him interest on the amounts of retirement benefits due to him from the due date till the date of actual payment. The representation was followed up by him with another one i.e. A-4 representation dated 23.10.2000.



Applicant further submitted that he was entitled to pension and other retirement benefits based on the 5th Central Pay Commission as per Government of India O.M. No.45/86/97-PNPW(A) Part I dated 18.10.99. He claimed that as per the said OM, he was entitled to monthly pension of Rs. 3699/- as against Rs. 3672/- which had been sanctioned to him, and the same was illegal. The mistake was due to the fact that the applicants personal pay was excluded while calculating his average emoluments. According to him he was also entitled to interest on delayed payment and revised commuted value of pension from December 1999 till 3.3.2001. The applicant has filed this Original Application seeking the above reliefs.

3. Respondents filed reply statement resisting the claim of the applicant. It is submitted that the applicant was never authorized a pension of Rs. 3682/- and the said amount was wrongly recommended by the 2nd respondent, but rightly worked out by respondent. 3 on the basis of the existing formula for calculation of pension in the revised scale. The Government of India further liberalized the recommendations of the 5th Pay Commission and adopted a new formula for calculation of pension of those employees who retired between 1.1.96 and 30.9.96. After necessary orders were issued by the Government of India with regard to fixation of pension of those who retired between 1.1.96 and 30.9.96, the case of the applicant was taken up again with the Pay & Accounts Office for revision of his pension to Rs. 3529/- by R2(a) letter. On detecting the calculation arriving at Rs. 3529/- as pension incorrect, respondent No.2 took up the matter again with the P&AO for



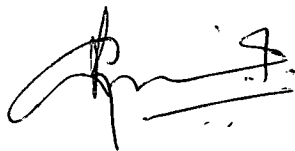
revision of his pension as Rs. 3672/- by R2(b) letter dated 20.2.2001. Pension of the applicant was never authorized @ Rs. 3682/- p.m. It was only wrongly recommended. Respondent No.3 fixed the pension of the application at Rs. 3140/- on the basis of the instructions at force, at that time. In the process of implementation of the 5th Pay Commission Report which commenced in September 1997, respondent No.2 like all other officers, was required to revise the pension of not only the officials who retired after 1.1.96 but also of those who retired prior to 1.1.96 from its office. Respondent No.2 received a large number of applications running into several thousands from ex officials for revision of their pension. After the recommendations of the 5th Pay Commission were accepted by the Government in September, 1997 fixation of pay of all serving as well as retired employees in the revised scales was taken up at the first instance. Cases of retired officials for revision of the pension were taken up thereafter one by one and in the process, the case of the applicant was sent to respondent No.3 on 14th January, 1998. Respondent No.3 also experienced the same problems of a large number of cases coming in after the recommendations yet it settled the case of the applicant immediately and issued orders revising the pension on 3.2.99 and for payment of difference of commuted value of pension of Rs.1,89,537/- and DCRG of Rs. 42,453/-. These amounts were paid to the applicant on 22.3.99 and 8.4.99 respectively. According to them, there was no inordinate delay at any stage in settling the case of the applicant. Respondent. 3 issued authorization for the payment of GPF on 2.1.2.96 allowing interest upto November 96 subject to the



condition that the correctness of the certain advances/withdrawals made by the applicant at the time of his posting at Calcutta were verified. Accordingly after verifying the records at Calcutta, respondent No.2 sent the bill again to respondent No.3 for payment of the GPF to the applicant on 29.1.97. The PAO issued the draft on 10.3.97.

4. There was an additional reply statement and rejoinder filed by the respondents and applicant respectively. Applicant also amended the OA adding a prayer to work out the pension of the applicant taking into account the increments sanctioned to him for adopting small family norms.

5. Heard the learned counsel for the parties Sri P.Chandrasekhar for the applicant and Sri K.Kesavankutty for the respondents. At the outset, learned counsel for the applicant submitted that in view of the ruling of the Hon'ble Supreme Court in Govt. of A.P. and others Vs. Syed Yousuddin Ahmed (1997) 7 SCC 24 that the additional increment sanctioned as an incentive for adoption of Family Planning could not be taken into account for the purpose of determining the amount of pension and also the fact that the applicant's pension had been revised to Rs. 3672/-, the applicant was not pressing the reliefs under sub paras (i) & (v) of para 8 of the OA. After taking me through the factual details as contained in the pleadings, he submitted that there was inordinate delay in payment of arrears of commuted value of pension and DCRG as also in the payment of his PF amount. Relying on the judgement of the Hon'ble Supreme Court and the Hon'ble High Court of



Kerala, he submitted that interest at 18% per annum for the period of delay from the dates the amounts of difference in commuted value of pension and DCRG became due to the dates of payment was liable to be paid and interest upto March 1997 was liable to be paid for the PF amount. Learned counsel for the respondents took me through the details in the reply statement and submitted that in view of the large number of claims which were pending in the wake of the acceptance of the recommendations of the 5th Pay Commission by the Central Government, the cases had to be processed one by one and there was no inordinate delay in processing the case of the applicant.

6. I have given careful consideration to the rival submissions and the pleadings as well as perused the documents brought on record. Respondents admit that the applicant's case for revision of pension was taken up by the second respondent and sent to the 3rd respondent- the Accounts Officer, Pay and Accounts Office - on 14.1.98. I note that the recommendations of the 5th Pay Commission was accepted by the Government in September, 1997. I also note that the cases of the retired officials for revision of pension was taken up after fixation of pay of all the serving as well as retired employees in the revised scales of pay. I find that the method of approach of the second respondent was reasonable and there was no inordinate delay in processing the case of the applicant. However, I note that the 3rd respondent issued orders revising the pension of the applicant only on 3.2.99, i.e. it has taken more than 12 months for the 3rd respondent to issue orders



revising the pension of the applicant. The difference in commuted value of pension and DCRG so authorized was paid to the applicant only on 22.3.99 and 8.4.99. Except stating that a large number of cases were required to be dealt with and the work was voluminous and it was difficult to settle all the cases in a few days or in a few months, no specific reason has been stated as to why it has taken for the 3rd respondent a period of more than 12 months to settle the case of the applicant. When the second respondent could prepare the case of the applicant for revision of pension and send it by 14.1.98 i.e. in 4 months, there is no explanation as to why the third respondent took 12 months to settle the case of the applicant. The delay is unexplained. To my mind the time taken appears excessive. Normally the Accounts Officer checks and authorizes the pension which is already prepared by the executive. In this case, the executive, i.e the Director had sent the pension papers of the applicant within about 4 months. Even accepting and allowing the same amount of time to the 3rd respondent, the orders revising the pension of the applicant and payment of difference in the commuted value of pension and DCRG should have been issued within a period of about 4 months by the 3rd respondent i.e.. by 15th May, 1998 the 3rd respondent should have authorized the payments. As against this, authorization was done in February 1999 and the applicant received the payment in March 1999 and April 1999 and this delay is not explained. In view of the above, the applicant is entitled for simple interest @ 12% per annum on these two amounts for this period i.e. for the period from 15th May 1998 to 22.3.99 on the amount of Rs.1,89,537/- being the difference in the



commuted value of pension and upto 8.4.99 on the amount of difference in the DCRG of Rs. 42453/-. Respondents are directed to calculate and pay the interest amount within a period of two months from the date of receipt of a copy of this order.

7. The next question that comes up is regarding the month upto which the interest is to be paid on the accumulated PF balance of the applicant. Admittedly the amount had been paid to the applicant only in March 1997. However, the respondents had calculated the interest on the PF accumulation of the applicant only upto November, 1996. According to them even though the amount was authorized for payment provisionally on 2.12.96, as certain advances/withdrawals made by the applicant at the time of his posting at Calcutta were to be verified, the 2nd respondent sent again the bill to the 3rd respondent on 29.1.97 and PAO issued draft on 10.3.97. This indicates that the initial authorization issued on 2.12.96 was without complete verification of the applicant's PF account. If the 3rd respondent had done this verification also it would have taken the same amount of time as was taken by the 2nd respondent. In this case, he has taken about 2 months more for doing this verification. In this situation, I am of the view that the applicant is entitled for interest on the PF balance upto the end of January 1997 as he has received the dues only in March 1997. Accordingly respondents shall calculate the interest on the PF balance of the applicant for 2 months more at the rate of 12% per annum and disburse the same to him.



8. In the light of the above, respondents are directed to make necessary calculations and arrange the monetary dues as above to the applicant within a period of two months from the date of receipt of a copy of this order.

9. The OA stands allowed to the above extent. No costs.

Dated 28th November, 2001.

A handwritten signature in black ink, appearing to be 'G. Ramakrishnan', written over a horizontal line.

G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

aa.

APPENDIX

APPLICANT'S ANNEXURE

1. Annexure A1: True copy of letter No.4/PF(T)/89(158)78-81 dated 14.1.98 alongwith enclosures sent by the Joint Director of Subsidiary Intelligence Bureau to the 3rd respondent.
2. Annexure A2: True copy of the letter dated 22.12.1998 sent by Asst. Director, Subsidiary Intelligence Bureau to the Asst. Controller of Accounts, Pay and Accounts Office, Intelligence Bureau, New Delhi.
3. Annexure A3: True copy of the representation dated 9.9.1999 sent by the applicant to the 2nd respondent.
4. Annexure A4: True copy of the representation sent by the applicant dated 23.10.2000 to the 2nd respondent.

RESPONDENT'S ANNEXURE

1. Annexure R2(a): True copy of the letter No.4/PF(T)/89(158) dated 5.12.2000 of the Subsidiary Intelligence Bureau (Ministry of Home Affairs), Government of India, Trivandrum.
2. Annexure R2(b): True copy of the letter No.4/PF(T)/89(158)-1371-1372 dated 20.2.2001 of the Subsidiary Intelligence Bureau(M/o Home Affairs), Government of India, Tvm.
3. Annexure R2(c): True copy of the Revised authorisation for Pension No.PAO/IB/MHA/Pension/Rev/1944 dated 22.2.2001 of the Pay and Accounts Office, Intelligence Bureau (M/o Home Affairs) Govt. of India.
4. Annexure R2(d): True copy of O.M.No.45/86/97-P & PW(A) Part I dated 18.10.1999 of the Ministry of Personnel Public Grievances & Pension.

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